

AMENDED ORDINANCE
OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK AMENDING
CHAPTER 190 “ZONING”, ARTICLE I “REVITALIZATION OVERLAY DISTRICT”
BY RENAMING THE ARTICLE AND REPEALING AND REENACTING §190-3
“POWERS AND DUTIES OF THE CITY ADVISORY PLANNING COMMISSION TO
CONDUCT HEARINGS”, §190-4, CRITERIA FOR GRANTING VARIANCES, §190-9
“DEPARTURES FROM DESIGN STANDARDS”, AND §190-17 “APPEAL” TO
CONFORM THE VARIANCE AND DEPARTURE PROVISIONS TO COUNTY LAW.

WHEREAS, pursuant to §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, the City of College Park, Maryland (hereinafter, the “City”) has the power to pass such ordinances as it deems necessary to protect the health, safety, and welfare of the residents of the City and to prevent and remove nuisances; and

WHEREAS, the Mayor and Council have adopted a requirement, set out in Chapter 190 of the City Code, to exercise those zoning powers with respect to variances and departures enabled in §25-301 of the Land Use Article, Annotated Code of Maryland, as authorized by Prince George’s County; and

WHEREAS, the City’s exercise of zoning powers as authorized by the County requires that City process and procedures in Chapter 190 follow those enacted in the County Zoning Ordinance amendment; and

WHEREAS, the Prince George’s County Zoning Ordinance has been amended in its entirety; and

WHEREAS, the Mayor and Council have determined that it is in the public interest to amend Chapter 190 to conform to the changes made in the new County Zoning Ordinance with respect to variances and departures.

CAPS	: Indicate matter added to existing law.
[Brackets]	: Indicate matter deleted from law.
Asterisks * * *	: Indicate matter remaining unchanged in existing law but not set forth in Ordinance
CAPS	:Indicate matter added in amendment
[Brackets]	:Indicate matter deleted in amendment

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the City of College Park, Maryland that the title of Chapter 190 “Zoning”, Article I “Zoning Authority”, §190-3, “Powers and duties of the City Advisory Planning Commission” be, and is hereby, repealed and reenacted to read as follows:

§ 190-3 Powers and duties of the City Advisory Planning Commission to conduct hearings.

A. The Commission shall conduct hearings for the following categories of requests with respect to property located within the corporate limits:

(1) Applications for variances from the strict application of the Prince George’s County Zoning Ordinance with respect to lot size, setback and similar requirements for land within the corporate boundaries, except that the Commission shall not have the power to hear and decide applications for variances filed in conjunction with a special exception, zoning case, site plan or other request where the District Council has the sole authority to grant variances from the strict application of the Prince George’s County Zoning Ordinance pursuant to Section 27-3613[239.03].

~~[(2) Departures from design and landscaping standards of the Prince George’s County Zoning Ordinance, Part 2, Division 4, Regulations Applicable in All Zones, Subdivision 6, Landscaping, Buffering and Screening (Section 27-123), and Division 5, Regulations Adopted by Reference, Subdivision 1, Landscape Manual, Section 27-124.03, and the Prince George’s Landscape Manual (2010 Edition, as amended).~~

~~(3) Departures from parking and loading standards of the Prince George’s County Zoning Ordinance, Part 11, Off-Street Parking and Loading, Division 2, Parking Facilities, Subdivision 2, Design Standards (Sections 27-554 through 27-566) and Subdivision 3, Minimum Requirements (Sections 27-568 through 27-574), and Division 3, Loading Facilities, Subdivision 2, Design Standards (Sections 27-577 through 27-581).~~

~~(4) Departures from sign design standards of the Prince George’s County Zoning Ordinance, Part 12, Signs, Division 3 (Sections 27-613 through 27-630.2).~~

~~(5) Certification, revocation, and revision of nonconforming uses, of the Prince George’s County Zoning Ordinance, Part 3, Division 6, Nonconforming Buildings, Structures and Uses, Sections 27-240 to 27-251.01.~~

~~(6) Minor changes to approved special exceptions, Prince George’s County Zoning Ordinance, Part 4, Division 1, Subdivision 10, Section 27-325.]~~

(2) DEPARTURES (MINOR AND MAJOR) OF NUMERICAL DESIGN AND LANDSCAPING STANDARDS IN THE MUNICIPALITY FOR:

A. PARKING AND LOADING STANDARDS (SECTION 27-6206(K)), BLOCK DESIGN; TABLE 27-6206(M)(1): MINIMUM STACKING SPACES FOR DRIVE-THROUGH FACILITIES AND RELATED USES; SECTION 27-6304(I), LARGE VEHICULAR USE AREAS (300 OR MORE SPACES); SECTION 27-6305, OFF-STREET PARKING SPACE STANDARDS; SECTION 27-6306, DIMENSIONAL STANDARDS FOR PARKING SPACES AND AISLES; AND SECTION 27-6310, LOADING AREA STANDARDS);

B. ALTERNATIVE COMPLIANCE FROM LANDSCAPING REQUIREMENTS (LANDSCAPE MANUAL); AND

C. SIGN DESIGN STANDARDS (SECTION 27-61505, STANDARDS FOR SPECIFIC SIGN TYPES; SECTION 27-61506, STANDARDS FOR SPECIAL PURPOSE SIGNS; AND SECTION 27-61507, STANDARDS FOR TEMPORARY SIGNS).

(3) CERTIFICATION, REVOCATION, AND REVISION OF NONCONFORMING USES (PART 27-7);

(4) AREA, SETBACK, AND SIMILAR REQUIREMENTS FOR LOT AREA, SETBACK, AND SIMILAR REQUIREMENTS (SECTION 27-3613); OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE.; AND

(5) MINOR CHANGES TO APPROVED SPECIAL EXCEPTIONS.

B. The Commission shall conduct a complete public hearing on the request, except with respect to limited minor changes that the Planning Director is authorized to approve, subject to all the requirements and restrictions imposed by law upon the Mayor and Council. The Commission is empowered to swear witnesses and to issue subpoenas for witnesses and documents.

C. After the conclusion of the hearing, the Commission shall serve upon all persons of record a written recommendation containing specific findings of fact, conclusions of law and a recommended disposition of the case. The recommendation shall be filed with the Mayor and Council and the Prince George's County Planning Department at the same time.

D. Rules of procedure for hearings and other meetings.

(1) The Commission may adopt rules of procedure consistent with the provisions of this section and the Prince George's County Zoning Ordinance.

(2) The Commission shall keep minutes of its proceedings.

(3) Hearings may be adjourned and continued. If the date, time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice of the

continuation shall be required. If the date, time and place is not publicly announced at the time of the adjournment, notice shall be given in the same manner as with the original hearing.

(4) All actions of the Commission shall be taken by resolution, in which at least a majority of the members must concur. Each resolution shall contain a statement of the grounds and findings of fact and conclusions of law forming the basis of the action. The text of the resolution and record of members' votes shall be incorporated into the minutes of the Commission. All such resolutions of the Commission shall be transmitted to the Mayor and Council within five days of the date thereof.

Section 2. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park that, §190-4 "Criteria for granting variances", be, and is hereby, repealed and reenacted with amendments to read as follows:

§ 190-4 Criteria for granting variances.

A variance from lot size, setback and any other requirements of the Prince George's County Zoning Ordinance from which a variance may be granted pursuant to § 190-3, Powers and duties of the City Advisory Planning Commission to conduct hearings, of the City Code may only be granted upon a finding that:

~~{A. A specific parcel of land has exceptional narrowness, shallowness or shape, exceptional topographic conditions or other extraordinary situations or conditions.~~

~~B. The strict application of the County Zoning Ordinance will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property.~~

~~C. The variance will not substantially impair the intent, purpose or integrity of any applicable county general plan or county master plan.}~~

A. A SPECIFIC PARCEL OF LAND IS PHYSICALLY UNIQUE AND UNUSUAL IN A MANNER DIFFERENT FROM THE NATURE OF SURROUNDING PROPERTIES WITH RESPECT TO EXCEPTIONAL NARROWNESS, SHALLOWNESS, SHAPE, EXCEPTIONAL TOPOGRAPHIC CONDITIONS, OR OTHER EXTRAORDINARY CONDITIONS PECULIAR TO THE SPECIFIC PARCEL (SUCH AS HISTORICAL SIGNIFICANCE OR ENVIRONMENTALLY SENSITIVE FEATURES);

B. THE PARTICULAR UNIQUENESS AND PECULIARITY OF THE SPECIFIC PROPERTY CAUSES A ZONING PROVISION TO IMPACT DISPROPORTIONATELY UPON THAT PROPERTY, SUCH THAT STRICT APPLICATION OF THE PROVISION WILL RESULT IN PECULIAR AND UNUSUAL PRACTICAL DIFFICULTIES TO THE OWNER OF THE PROPERTY;

C. SUCH VARIANCE IS THE MINIMUM REASONABLY NECESSARY TO OVERCOME THE EXCEPTIONAL PHYSICAL CONDITIONS;

- D. SUCH VARIANCE CAN BE GRANTED WITHOUT SUBSTANTIAL IMPAIRMENT TO THE INTENT, PURPOSE AND INTEGRITY OF THE GENERAL PLAN OR ANY FUNCTIONAL MASTER PLAN, AREA MASTER PLAN, OR SECTOR PLAN AFFECTING THE SUBJECT PROPERTY;
- E. SUCH VARIANCE WILL NOT SUBSTANTIALLY IMPAIR THE USE AND ENJOYMENT OF ADJACENT PROPERTIES; AND
- F. A VARIANCE MAY NOT BE GRANTED IF THE PRACTICAL DIFFICULTY IS SELF-INFLICTED BY THE OWNER OF THE PROPERTY.

Section 3. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council

of the City of College Park that, §190-6 "Procedures for granting variances; filing fees; public hearing", be, and is hereby, repealed and reenacted with amendments to read as follows:

§ 190-5 Procedures for granting variances; filing; fees; public hearing.

A. – C.

D. Notice of public hearing.

(1) At least [~~seven~~] FIFTEEN days' notice of the date, time and place of the hearing shall be sent, by certified mail, return receipt requested, to the applicant [~~, to any agency or department whose decision is the subject of the variance request~~] and to the owners of abutting AND OPPOSITE property (including those properties directly across a street, alley or stream).

(2) The Commission may send notice of the hearing to other interested persons, organizations or agencies and/or the State Highway Administration. The Commission shall send a notice of hearing to the Maryland-National Capital Park and Planning Commission, the Prince George's County Planning Board and the Prince George's County Council sitting as the District Council.

(3) [~~All notices shall contain:~~

~~(a) The name of the applicant.~~

~~(b) The date, time and place of the hearing.~~

~~(c) A brief statement describing the specific nature of the variance request.~~

~~(3) The Commission may require additional notice of hearings by at least one advertisement in a newspaper of general circulation in the City. The advertisement shall appear not less than five days prior to the date of the hearing and shall contain the same information as is required in the written notices. The cost of the advertisement shall be paid by the applicant.]~~

ALL NOTICES REQUIRED BY THIS SECTION SHALL INCLUDE:

(A) THE DATE, TIME, AND PLACE OF THE PUBLIC HEARING ON THE APPLICATION;

(B) THE APPLICATION NUMBER AND THE TYPE OF APPLICATION BEING CONSIDERED;

- (C) THE DESCRIPTION OF THE LAND SUBJECT TO THE APPLICATION;
- (D) A SUMMARY OF THE APPLICANT'S REQUEST;
- (E) A PHONE NUMBER AND E-MAIL ADDRESS, PROMINENTLY DISPLAYED, TO CALL OR E-MAIL FOR ADDITIONAL INFORMATION, ALONG WITH THE WEBSITE ADDRESS OF THE PLANNING DEPARTMENT, THE BOA, THE ZHE, AND THE DISTRICT COUNCIL, AS APPROPRIATE;
- (F) IF A PUBLIC HEARING IS REQUIRED, THE WORD "HEARING" SHALL BE PROMINENTLY DISPLAYED; AND
- (G) A STATEMENT, CLEARLY DISPLAYED, THAT ANY MEMBER OF THE PUBLIC IS WELCOME TO ATTEND THE PUBLIC HEARING AND SPEAK EITHER IN SUPPORT OR OPPOSITION TO THE PUBLIC HEARING.

(4) [~~When the subject property is not in a residential zone, the~~] THE Commission shall post the property with a durable sign at least 15 days prior to the scheduled hearing date. The sign shall include the following information:

- (a) The title "notice of public hearing."
 - (b) The name of the applicant.
 - (c) The total area of the property.
 - (d) A brief statement describing the nature of the request.
 - (e) The date, time and place of the public hearing.
 - (f) Instructions for obtaining further information regarding the request.
- (5) There shall be one sign posted for each 1,000 feet or fraction thereof of frontage on each improved street. The sign(s) shall be posted on the property near the street right-of-way so as to be visible from the improved portion of the street. When more than one sign is required to be posted along a street, the signs shall, where practicable, be evenly spaced along the street.

THE POSTED NOTICE SIGN(S) SHALL BE SINGLED-SIDED IF THE SITE OCCUPIES FRONTAGE ON A CUL-DE-SAC, AT THE END OF A DEAD-END STREET, OR ON A ONE-WAY STREET. THE SIGN(S) SHALL BE ORIENTED TO MAXIMIZE THEIR VISIBILITY TO MOTORISTS. THE POSTED NOTICE SIGN(S) SHALL BE DOUBLE-SIDED IF THE SITE OCCUPIES FRONTAGE ON A STREET THAT IS VISIBLE TO TWO-WAY TRAFFIC. THESE SIGN(S) SHALL BE CONFIGURED IN A "V" SHAPE, AT A 45-DEGREE ANGLE, AND ORIENTED TO MAXIMIZE THEIR VISIBILITY TO MOTORISTS. IF THE SITE DOES NOT HAVE FRONTAGE ON AN IMPROVED PUBLIC STREET, THEN ONE SIGN SHALL BE PLACED ON THE LAND SUBJECT TO THE APPLICATION. THE SIGN SHALL BE NEAR THE BOUNDARY OF THE SITE AND VISIBLE FROM ADJOINING LAND. ANOTHER SIGN SHALL BE PLACED NEAR TO, AND VISIBLE FROM, THE IMPROVED PORTION OF THE NEAREST, MOST-TRAVELED STREET. THIS SIGN SHALL INDICATE IT IS NOT ON THE LAND SUBJECT TO THE APPLICATION. IF THE PLACEMENT OF ANY SIGN ON THE LAND SUBJECT TO THE APPLICATION IS NOT VISIBLE TO MOTORISTS FROM ADJOINING STREETS, THE PLANNING DIRECTOR MAY REQUIRE PLACEMENT OF

ADDITIONAL SIGNS, AS NEEDED, TO ENSURE THAT NOTICE ABOUT THE APPLICATION AND PUBLIC HEARING IS ACCESSIBLE TO THE GENERAL PUBLIC.

(6) If the property does not have frontage on an improved street, one sign shall be placed near to, and be visible from, the improved portion of the nearest, most traveled street. In addition to the required information, this sign shall state that the sign is not on the subject property and that a property having no improved street frontage is the subject of this hearing.

(7) All signs posted shall be conspicuous and legible for at least 15 days prior to the hearing. The applicant is responsible for the maintenance of all signs.

E. – G. * * * *

Section 3. **BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the City of College Park that, §190- 9 “Departures from design standards”, be, and is hereby repealed, reenacted and amended to read as follows:

§190-9 Departures from NUMERICAL design AND LANDSCAPING standards

A. [~~A departure from the design standards contained in Part 11 and Part 12 of the Prince George's County Zoning Ordinance and the Prince George's County Landscape Manual may be permitted by the Commission in accordance with the provisions of this section. Applicants shall also comply with Section 27-125.01 of the Prince George's County Zoning Ordinance.~~] DEPARTURES (MINOR AND MAJOR) OF NUMERICAL DESIGN AND LANDSCAPING STANDARDS MAY BE GRANTED FOR THE FOLLOWING (ALL SECTION REFERENCES ARE TO THE COUNTY ZONING ORDINANCE):

1. PARKING AND LOADING STANDARDS (SECTION 27-6206(K)), BLOCK DESIGN; TABLE 27-6206(M)(1): MINIMUM STACKING SPACES FOR DRIVE-THROUGH FACILITIES AND RELATED USES; SECTION 27-6304(I), LARGE VEHICULAR USE AREAS (300 OR MORE SPACES); SECTION 27-6305, OFF-STREET PARKING SPACE STANDARDS; SECTION 27-6306, DIMENSIONAL STANDARDS FOR PARKING SPACES AND AISLES; AND SECTION 27-6310, LOADING AREA STANDARDS)
2. ALTERNATIVE COMPLIANCE FROM LANDSCAPING REQUIREMENTS (LANDSCAPE MANUAL); AND
3. SIGN DESIGN STANDARDS (SECTION 27-61505, STANDARDS FOR SPECIFIC SIGN TYPES; SECTION 27-61506, STANDARDS FOR SPECIAL

PURPOSE SIGNS; AND SECTION 27-61507, STANDARDS
FOR TEMPORARY SIGNS).

B. Procedures.

(1) Application.

(a) All requests for a departure from design standards shall be in the form of an application filed with the Commission, except that departure applications that are in conjunction with another approval upon which the Prince George's County District Council or the Prince George's County Planning Board must make a decision shall be filed as required under the [e]County Zoning Ordinance. The Commission shall determine the contents of the application and shall provide the application form.

(b) Along with the application, the applicant shall submit the following:

[1] ~~[Ten copies of a]~~ A site plan and other graphic illustrations which are considered necessary to indicate what is being proposed.

[2] ~~[Ten copies of a]~~ A written statement by the applicant addressing the requirements of Subsection B(8) below. The applicant shall be responsible for providing all information that is necessary for the Commission to make its decision under Subsection B(7).

[3] A list of the names and addresses of the abutting AND OPPOSITE property owners.

(2) Fees.

(a) Filing fees. Upon filing the application, the applicant shall pay to the Commission a filing fee to help defray the costs of processing the application as set forth in Chapter 110, Fees and Penalties, of the Code. The filing fee for a departure for a church or other place of worship shall not exceed \$100. A reduction in the fee may be permitted by the Commission when it finds that payment will cause undue hardship upon the applicant.

(b) Sign-posting fees.

[1] In addition to the filing fee, a sign-posting fee as set forth in Chapter 110 of the Code, Fees and Penalties, shall also be paid by the applicant to the Commission at the time the application is filed.

[2] When the application involves a utility right-of-way, the fee shall be \$30 each for the first four signs, plus \$5 for each sign over four.

[3] No part of a fee shall be refunded or waived unless the Commission determines that one of the following applies:

[a] The fee was paid by mistake, and the applicant has requested (in writing) a refund; or

[b] The application is withdrawn prior to posting the sign. In this case, the entire sign-posting fee shall be refunded.

(3) Hearing. Prior to making a recommendation on a departure from design standards, the Commission shall hold a public hearing on the matter. The Commission shall determine the procedures under which the hearing will be held.

(4) Notice.

(a) ~~[N]~~ FOR MAJOR AND MINOR DEPARTURES, FIFTEEN DAYS PRIOR Notice of the date, time and place of the hearing shall be sent BY MAIL to all persons of record, the Maryland-National Capital Park and Planning Commission ~~[and]~~ the Prince George's County Council sitting as the District Council, OWNERS OF ABUTTING AND OPPOSITE PROPERTIES AND PROPERTIES ON THE SAME BLOCK AS, OR WITHIN 500 FEET OF THE LAND SUBJECT TO THE APPLICATION;

(B) ALL NOTICES REQUIRED BY THIS SECTION SHALL INCLUDE:

THE DATE, TIME, AND PLACE OF THE PUBLIC HEARING ON THE APPLICATION;
THE APPLICATION NUMBER AND THE TYPE OF APPLICATION BEING
CONSIDERED;

THE DESCRIPTION OF THE LAND SUBJECT TO THE APPLICATION;

A SUMMARY OF THE APPLICANT'S REQUEST;

A PHONE NUMBER AND E-MAIL ADDRESS, PROMINENTLY DISPLAYED, TO CALL OR E-MAIL FOR ADDITIONAL INFORMATION, ALONG WITH THE WEBSITE ADDRESS OF THE PLANNING DEPARTMENT, THE BOA, THE ZHE, AND THE DISTRICT COUNCIL, AS APPROPRIATE;

IF A PUBLIC HEARING IS REQUIRED, THE WORD "HEARING" SHALL BE PROMINENTLY DISPLAYED; AND

A STATEMENT, CLEARLY DISPLAYED, THAT ANY MEMBER OF THE PUBLIC IS WELCOME TO ATTEND THE PUBLIC HEARING AND SPEAK EITHER IN SUPPORT OR OPPOSITION TO THE PUBLIC HEARING.

(c) The Commission shall post the property with at least one durable sign giving notice of the hearing at least 15 days prior to the scheduled hearing date. The contents of the sign and the number of signs required shall be determined by the Commission. All signs posted must be conspicuous and legible. The applicant is responsible for the maintenance of all signs.

(d) Additional notice may be given, as determined by the Commission.

(5) In order to help it reach a decision, the Commission may request the Maryland-National Capital Park and Planning Commission, Prince George's County, Prince George's County Planning Board and/or the State Highway Administration to furnish comments or recommendations. These comments and recommendations shall be available for public examination prior to the public hearing.

(6) Record.

(a) The record created before the Commission shall include, but not be limited to:

[1] The application form and accompanying data.

[2] Comments and recommendations (if any) from the Maryland-National Capital Park and Planning Commission, Prince George's County, Prince George's County Planning Board and the State Highway Administration.

[3] All correspondence relative to the application.

[4] All testimony at the public hearing.

[5] Other items which the Commission deems necessary.

(b) At the conclusion of the public hearing, the Commission may close the record or may leave the record open (for a specified time) for receipt of additional written evidence.

(7) Commission recommendation.

(a) After the close of the record, the Commission shall take action on the request. The recommendation of the Commission shall be based on the record and shall be embodied in a resolution adopted at a public meeting containing the findings of fact and conclusions of law forming the basis for the Commission's recommendation.

(b) The Commission shall within 15 days after the close of the record give written notice of its recommendation to all persons of record and the Mayor and Council.

(8) Required findings.

~~[(a) A recommendation that a departure be granted shall be made by the Commission only upon the following findings:~~

~~[1] The purposes of the applicable provisions of the Prince George's County Zoning Ordinance will be equally well or better served by the applicant's proposal.~~

~~[2] The departure is the minimum necessary, given the specific circumstances of the request.~~

~~[3] The departure is necessary to alleviate circumstances that are special to the subject use, given its nature at this location, or alleviate circumstances which are prevalent in the district.~~

~~(b) For departures from sign design standards, the departure will not impair the visual, functional or environmental quality or integrity of the site or of the surrounding neighborhood.~~

~~(c) For departures from parking and loading standards, the Commission must also find that all methods for calculating spaces required (Division 2, Subdivision 3, and Division 3, Subdivision 3, of Part 11 of the Prince George's County Zoning Ordinance) have either been used or found to be impractical, and parking and loading needs of adjacent residential areas will not be infringed upon if the departure is granted.~~

~~[1] In making its findings, the Commission shall give consideration to the following:~~

~~[a] The parking and loading conditions within the general vicinity of the subject property, including numbers and locations of available on- and off-street spaces within 500 feet of the subject property;~~

~~[b] The recommendations of an area master plan, or county or local revitalization plan, regarding the subject property and its general vicinity;~~

~~[c] The recommendations of a municipality (within which the property lies) regarding the departure; and~~
~~[d] Public parking facilities which are proposed in the county's capital improvement program within the general vicinity of the property.~~
~~[2] In making its findings, the Commission may give consideration to the following:~~
~~[a] Public transportation available in the area;~~
~~[b] Any alternative design solutions to off-street facilities which might yield additional spaces;~~
~~[c] The specific nature of the use (including hours of operation if it is a business) and the nature and hours of operation of other (business) uses within 500 feet of the subject property;~~
~~[d] In the R-30, R-30C, R-18, R-18C, R-10A, R-10, and R-H Zones, where development of multifamily dwellings is proposed, whether the applicant proposes and demonstrates that the percentage of dwelling units accessible to the physically handicapped and aged will be increased over the minimum number of units required by Subtitle 4 of the Prince George's County Code.~~
~~(d) For a departure from a standard contained in the landscape manual the Commission shall find, in addition to the requirements in Subsection B(8)(a) above, that a proposal for alternative compliance has been denied by the Planning Director pursuant to § 190-16 below and that there is no feasible proposal for alternative compliance, as defined in the landscape manual, which would exhibit equal or better design characteristics.]~~

8. A DEPARTURE (MINOR OR MAJOR) MAY BE APPROVED A DEPARTURE UPON A FINDING THAT THE APPLICANT DEMONSTRATES THE PROPOSED DEPARTURE COMPLIES WITH THE FOLLOWING:

- (a) THE DEPARTURE FALLS WITHIN THE THRESHOLDS PROVIDED IN SUBSECTION 27-3614(B)(2), MAJOR DEPARTURES FOR THE APPLICABLE TYPE OF DEPARTURE;
- (b) THE DEPARTURE IS CONSISTENT WITH THE CHARACTER OF DEVELOPMENT ON SURROUNDING LAND, AND IS COMPATIBLE WITH SURROUNDING LAND USES;
- (c) THE DEPARTURE:
 - i. COMPENSATES FOR SOME UNUSUAL ASPECT OF THE SITE OR THE PROPOSED DEVELOPMENT THAT IS NOT SHARED BY LANDOWNERS IN GENERAL, AND
 - ii. SUPPORTS AN OBJECTIVE OR GOAL FROM THE PURPOSE AND INTENT STATEMENTS OF THE ZONE WHERE IT IS LOCATED, OR
 - iii. SAVES HEALTHY EXISTING TREES.
- (d) THE DEPARTURE WILL NOT POSE A DANGER TO THE PUBLIC HEALTH OR SAFETY;

- (e) ANY ADVERSE IMPACTS ARE MITIGATED, TO THE MAXIMUM EXTENT PRACTICABLE;
- (f) THE SITE IS NOT SUBJECT TO A SERIES OF MULTIPLE, INCREMENTAL DEPARTURES THAT RESULT IN A REDUCTION IN EACH DEVELOPMENT STANDARD BY THE MAXIMUM ALLOWED OVER THE PREVIOUS TWENTY (20) YEARS. (RELEVANT DEVELOPMENT STANDARDS CANNOT BE REDUCED BEYOND THE MAXIMUM THRESHOLDS ALLOWED IN THIS SUBSECTION, THROUGH MORE THAN ONE DEPARTURE, OVER THE PREVIOUS TWENTY (20) YEARS); AND
- (g) FOR A DEPARTURE FROM A STANDARD CONTAINED IN THE LANDSCAPE MANUAL, THE PLANNING BOARD SHALL FIND, IN ADDITION TO THE REQUIREMENTS ABOVE, THAT THERE IS NO FEASIBLE PROPOSAL FOR ALTERNATIVE COMPLIANCE, AS DEFINED IN THE LANDSCAPE MANUAL, WHICH WOULD EXHIBIT EQUALLY EFFECTIVE DESIGN CHARACTERISTICS.
- (h) Facilities for the physically handicapped. A departure from the design standards for parking facilities for the physically handicapped shall not be granted.

C. Not less than 15 days after receipt of a recommendation of the Commission regarding a departure, a majority of the Mayor and Council may adopt the recommendation of the Commission by consent, unless within that fifteen-day period a Council member requests oral argument on the matter or exceptions and a request for oral argument is filed in accordance with § 190-10 below. Oral argument may only be requested by a Council member when a recommendation of the Commission is not unanimous or when it is alleged that the recommendation fails to comply with the criteria established herein. Oral argument shall be conducted in accordance with § 190-10. Failure of the Mayor and Council to act on the recommendation of the Commission within 60 days of the receipt thereof shall result in the denial of the request.

Section 4. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park that, §190-17, “Appeal” be, and is hereby, repealed, re-enacted and amended to read as follows:

§ 190-17Appeal.

A. Except as provided in Subsection B of this section, [~~any party of record to an action of the Mayor and Council under this section shall have the same right of appeal to the Circuit Court as the party would have if the action had been taken by the District Council.~~]

ANY PERSON AGGRIEVED BY THE DECISION OF THE MAYOR AND COUNCIL WHO WAS A PARTY TO THE PROCEEDING BEFORE IT MAY APPEAL TO THE CIRCUIT COURT, WHICH SHALL HAVE THE POWER TO AFFIRM THE DECISION OF

THE MAYOR AND COUNCIL OR, IF THE DECISION IS NOT IN ACCORDANCE WITH LAW, TO REMAND THE MATTER OR TO MODIFY OR REVERSE THE DECISION.

B. Before exercising the right of appeal under Subsection A of this section, a party of record shall first appeal an action of the governing body of a municipal corporation under this section to the District Council for review on the record if the action concerns certification AND revocation~~[, and revision]~~ of nonconforming uses.

~~[(1) On review, the District Council may:~~

~~(a) By majority vote of its members, approve the action of the municipal corporation; or~~

~~(b) By a vote of at least six of its members, approve with conditions or overrule the action of the Mayor and Council.~~

~~(2) A person aggrieved by the action of the District Council under this subsection may appeal to the Circuit Court.~~

~~(3)]~~ For purposes of an appeal to the Circuit Court under Subsection B of this section, the City shall be considered an aggrieved person.

Section 5. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park that, upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the City Clerk and shall post at City Hall, to the official City website, to the City-maintained e-mail LISTSERV, and on the City cable channel, and if time permits, in any City newsletter, the proposed ordinance or a fair summary thereof together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council.

The public hearing, hereby set for 7:30 P.M. on the 11th day of April, 2023, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard.

After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. This Ordinance shall become effective on May 2nd, 2023 provided that, as soon as practicable after adoption, the City Clerk shall post a fair summary of the Ordinance and notice of its adoption at City Hall, to the official City website, to the City-maintained e-mail LISTSERV, on the City cable channel, and in any City newsletter.

If any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining section, subsection, provision, sentence, clause, phrase or word included within this Ordinance, it being the intent of the City that the remainder of the Ordinance shall be and shall remain in full force and effect, valid and enforceable.

INTRODUCED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 21st day of March 2023.

ADOPTED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 11 day of April 2023.

EFFECTIVE the 2nd day of May, 2023.

ATTEST:

CITY OF COLLEGE PARK

By: _____
Janeen S. Miller, CMC, CERA, City Clerk

By: _____
Denise C. Mitchell, Mayor Pro tempore

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Suellen M. Ferguson, City Attorney

CAPS	: Indicate matter added to existing law.
[Brackets]	: Indicate matter deleted from law.
Asterisks * * *	: Indicate matter remaining unchanged in existing law but not set forth in Ordinance
CAPS	: Indicate matter added in amendment
[Brackets]	: Indicate matter deleted in amendment